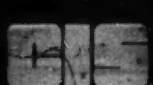
NOTE

This Microfiche meets the quality requirements of the American National Standard for Microfiche of Documents (ANSI PH5.9-1975). However, because of imperfections in the document from which it was made, it contains images that are illegible or difficult to read. The source document for this microfiche is the best copy that could be obtained prior to filming.



Calendar No. 283

100TH CONGRESS *1st Session*	SENATE	REPORT 100-138

AIR PASSENGER PROTECTION ACT OF 1987

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

OF THE

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

S. 1485

AUGUST 3 (legislative day, JUNE 23), 1987.—Ordered to be printed

---

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1987

91-010

S263-18

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ERNEST F. HOLLINGS, South Carolina, *Chairman*

DANIEL K. INOUYE, Hawaii
WENDELL H. FORD, Kentucky
DONALD W. RIEGLE, JR., Michigan
J. JAMES EXON, Nebraska
ALBERT GORE, JR., Tennessee
JOHN D. ROCKEFELLER IV, West Virginia
LLOYD BENTSEN, Texas
JOHN F. KERRY, Massachusetts
JOHN B. BREAUX, Louisiana
BROCK ADAMS, Washington

JOHN C. DANFORTH, Missouri
BOB PACKWOOD, Oregon
NANCY LANDON KASSEBAUM, Kansas
LARRY PRESSLER, South Dakota
TED STEVENS, Alaska
ROBERT W. KASTEN, JR., Wisconsin
PAUL S. TRIBLE, JR., Virginia
PETE WILSON, California
JOHN McCAIN, Arizona

RALPH B. EVERETT, *Chief Counsel and Staff Director*
W. ALLEN MOORE, *Minority Chief of Staff*

Calendar No. 283

100TH CONGRESS
1st Session

SENATE

REPORT
100-138

AIR PASSENGER PROTECTON ACT OF 1987

AUGUST 3 (legislative day, JUNE 23), 1987.—Ordered to be printed

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 1485]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1485) to amend the Federal Aviation Act of 1958 to provide various protections for passengers traveling by aircraft, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill do pass.

PURPOSE OF BILL

This legislation is designed to improve the quality of commercial airline service in the United States. It requires the Department of Transportation (DOT), which has jurisdiction over airline consumer matters, to ensure the availability to air travelers of important information on airline service and performance, which will result in more informed consumers and more competitive airline service. The bill also requires the Secretary of Transportation (Secretary) to ensure changes in airline scheduling practices to make them more realistic and thus reduce the number of delays caused by schedules that are impossible to meet.

BACKGROUND AND NEEDS

Prior to the enactment of the Airline Deregulation Act of 1978, the Civil Aeronautics Board (CAB) required the regular submission of data from U.S. airlines on a variety of performance factors. Generally, the CAB found that the airline performance reporting requirements, established under former part 234 of title 14, Code of Federal Regulations, provided benefits that justified their being im-

posed. In 1964, for example, the Board reached the conclusion that such reporting had resulted in improved on-time performance for the airline industry. In fact, it became common practice for the carriers themselves to make use of such information in their advertising.

With the elimination of fare and route regulation in 1978, the CAB began loosening its airline performance reporting requirements. In 1981, following the air traffic controllers' strike, the reporting requirements under then-part 234 were temporarily waived. Then, in 1984, months before the CAB went our of existence and consumer protection authority was transferred to DOT, the Board rescinded its reporting requirements in their entirety, while simultaneously issuing a policy statement concerning unrealistic scheduling practices. In taking such action, the CAB reasoned that the increased competition offered by deregulation promised to provide the airlines with sufficient incentive to schedule realistically and ensure quality service.

Events in the past year have necessitated a review of the need for airline performance reporting and renewed consumer protections in a deregulated environment. For example, in 1986, more than 417,000 flights qualified as delayed, where a "delay" is defined as a departure more than 15 minutes after the pilot's request for clearance to push away from the terminal. This translated into an average of 1,144 delayed flights a day. By June 1987, this had increased to nearly 1,450 delayed flights a day, or 43,424 delayed flights during the month.

Delayed flights, while having reached record levels and become an enormous problem for today's air travelers, however, are not the only air service difficulty being encountered. Increasingly, travelers are reporting cancelled flights, lost baggage, overbookings, refund problems, ticketing and boarding problems, and deteriorating customer service—all in record numbers. For example, in 1985, DOT received 11,142 complaints from air travelers. By 1986, that number had increased to 12,741. This year, after only six months, DOT has received a record 14,023 complaints about the poor quality of airline service. The problem continues to grow monthly; there were 5,155 airline service complaints made to DOT in June 1987, six times the 843 complaints filed in June 1986.

The Committee notes that while these figures illustrate the magnitude of the problem, they may not be an accurate assessment of the total number of consumer problems. Most service problems are handled directly by the airline, without any further action on the part of the traveler. Since the DOT consumer complaint telephone number, a toll call for most of the country, is not widely advertised or known, the Committee believes that the problem is far worse than these figures illustrate.

This legislation attempts to address these problems, consistent with safety, and improve the quality of airline service in the United States. It requires improved information on the performance of every airline to the traveling public, a step needed to increase consumer awareness and to improve competition between airlines on the basis of quality of service. The bill attempts to ensure more realistic airline scheduling by establishing minimum elapsed flight times and eliminating incentives to schedule more

flights than an airport can handle at any given time. In addition, the bill sets other basic minimum requirements to protect air travelers in the desegulated environment of the airline industry.

Legislative History

The Aviation Subcommittee held a hearing on April 23, 1987 to address both the problem of deteriorating quality of commercial airline service and the need for legislative solutions. Witnesses included the respresentatives of DOT and several major U.S. airlines.

On July 10, Senator Ford, Chairman of the Aviation Subcommittee, introduced S. 1485, the Air Passenger Protection Act of 1987. The bill is cosponsored by Senators Hollings, Kassebaum, Danforth, Gore, and Exon.

Several other bills relating to airline delays and air traveler problems have been introduced and referred to the Committee during the 100th Congress. The bills include: S. 679, introduced by Senator Danforth; S. 757, introduced by Senator Lautenberg; S. 885, introduced by Senator Metzenbaum; and S. 1088, also introduced by Senator Lautenberg.

On July 14, 1987, the Commerce Committee met in open executive session to consider S. 1485. After adopting without objection an amendment offered by Senator Ford requiring that information reported under the bill not be used by a vendor of a computerized reservation system to bias the display of flights or fare information, the Committee, without objection, ordered S. 1485 reported.

Summary of Major Provisions

As reported, S. 1485 provides for the following:

1. The Secretary is required to issue, within 90 days of enactment, regulations requiring air carriers to submit to DOT on a monthly basis the following information, as it relates to service between all U.S. airports, which will be made available to the public through the publication of summary reports in the Federal Register and the issuance of monthly reports:

   (a) On-time performance, measured as the average actual departure and arrival time past the scheduled departure and arrival time for each airport-pair served by an air carrier.

   (b) The number of passengers on each carrier who arrive at their final destination without one or more pieces of their checked baggage and who so notify the air carrier.

   (c) The number of flights cancelled by an air carriers at each airport.

   (d) The number of passengers involuntarily denied boarding by each air carrier and the compensation offered these passengers.

2. Information on the actual arrival time for each scheduled flight that an airline operates between U.S. airports, based on the actual times of arrival for that flight during the previous month, is required to be submitted to DOT to be included in all schedules published in airline computer reservation systems and made available to the public.

3. The Administrator of the Federal Aviation Administration (FAA) is required to issue, within 90 days of enactment, regulations

establishing minimum elapsed times for each domestic flight, taking into account factors such as the distance between two airports, the standard cruise speed for the type of aircraft, typical taxi, landing, and take-off times for each aircraft type, and where appropriate, meteorological factors. No air carrier then will be permitted to publish a schedule reflecting a shorter elapsed time than the FAA standards.

4. The Secretary shall prohibit any airline computer reservation system displaying airline schedules from assigning a penalty to a flight that is within an hour of the requested departure time. Currently, the computer systems, from which the vast majority of airline tickets are sold, give priority listing to those flights departing closest to the time requested by each individual traveler. Those flights scheduled before and after a requested departure time are thus penalized in the computer reservation system listing. The bill will eliminate this incentive, encouraging the carriers to spread out their schedules.

5. The Secretary is required to establish a standard definition of what a delayed flight is, as well as definition of specific causes of delays. Each airline, when reporting the number of delayed flights, then will be required to report to DOT the cause of its delays on a month-by-month basis.

6. The Secretary is required to establish a uniform designation symbol to be used by every airline in its schedule to identify flights provided by aircraft with 30 or fewer passenger seats.

7. The Secretary is required to amend its final rule relating to carry-on baggage programs to establish system-wide standards to be used by air carriers in controlling the size and amounts of carry-on baggage.

8. The Secretary must require that when an air carrier advertises a fare and does not make that fare available on all seats, it must provide notice in that advertisement that the availability of seats at that fare is limited.

9. The Secretary is required to establish a 24-hour, toll-free consumer hotline to provide information on air carrier performance records, on the rights of consumers and responsibilities of air carriers, and assistance in resolving disputes between consumers and air carriers. Information on this hotline shall be printed or stamped on each ticket jacket and displayed at airports.

10. The Secretary is directed to establish an Advisory Committee, headed by the FAA Administrator and including representatives of aviation user groups, to determine the appropriate level of capacity in the air traffic control system.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 27, 1987.

Hon. ERNEST F. HOLLINGS,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1485, the Air Passenger Protection Act of 1987, as ordered reported by the Senate Committee on Commerce, Science, and Transportation, July 14, 1987. CBO estimates that enactment of this bill would result in costs to the federal government of $8 million to $16 million in fiscal year 1988 and $7 million to $14 million annually thereafter, assuming appropriation of the necessary funds.

S. 1485 would require that within 90 days of enactment the Secretary of Transportation promulgate regulations requiring air carriers to submit to the Department of Transportation (DOT) certain information relating to their performance, amend the regulations regarding computerized airline reservation systems, establish a 24-hour toll-free consumer hotline, and promulgate certain other regulations. The Secretary would be required to make information regarding air carrier performance available to the public. This bill would also require that the Administrator of the Federal Aviation Administration (FAA) determine minimum realistic times for scheduled flights, and that an advisory commitee be established to determine the appropriate level of capacity in the air traffic control system.

Based on information from DOT, CBO estimates that the promulgation and amendment of regulations, the requirement to make information regarding air carrier performance available to the public, and the establishment of an advisory committee would not result in significant additional costs to the federal government. Costs to make information regarding air carrier performance available to the public could become significant, however, if DOT were requested to make large amounts of information available other than through the hotline.

CBO estimates that the 24-hour toll-free hotline would result in costs to the federal government of between $6 million and $12 million annually, assuming that the hotline would provide callers with information about air carrier performance, consumer rights and air carrier responsibilities, and some assistance with consumer complaints.

Costs would be significantly higher if DOT were to be responsible for resolving issues and complaints raised by callers. This estimate assumes that between two million and four million inquiries and complaints would be made annually through this hotline.

CBO estimates that the costs to process the information regarding air carrier performance and to determine the minimum realistic times for scheduled flights would be $2 million to $4 million in fiscal year 1988, and $1 million to $2 million annually thereafter.

No significant costs would be incurred by state or local governments as a result of enactment of this bill.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation.

NUMBER OF PERSONS COVERED

This legislation is designed to cover all regularly-scheduled domestic airline service operated by U.S. air carriers. In addition, the legislation covers all airline computerized reservation systems through which flights are listed for sale to air travelers. Because these airlines and computer reservation systems are currently subject to consumer regulation by DOT, there should be no increase in the number of persons covered as a result of this legislation.

ECONOMIC IMPACT

This legislation requires the submission of increased amounts of information by each air carrier on its performance for the previous month. Many airlines currently collect information of the type specified by this legislation. However, for those that do not, collecting and providing information on the prior month's performance, as required by this bill, will result in increased costs.

New section 421, requiring the listing in computer reservation systems of flight-specified delay information, based on the average arrival time for each flight, may result in increased costs related to software changes for the vendors of those systems. In addition, several carriers with computer reservation systems have asserted that if the flight-by-flight arrival time information is requested by significant numbers of air travelers, this provision will result in longer telephone conversations with airline reservation and travel agents, which will necessitate the hiring of additional personnel. However, the largest airline computer reservation system vendor has asserted that the additional costs related to this provision will be minimal and that the information will help better inform air travelers.

The bill also prohibits any air carrier from scheduling a flight of a shorter elapsed time between any two domestic airports than determined by the FAA. This effort to mandate realistic scheduling may result in slightly less efficient use of aircraft and increased labor costs for the airline industry if unrealistically short schedules are eliminated. However, because this provision is only intended to correct unrealistic airline scheduling practices, it should result in benefits such as the elimination of unnecessary delays, which in turn will increase the productivity of many air travelers.

PRIVACY

This legislation will not have any adverse impact on the personal privacy of any individual.

PAPERWORK

The bill requires each airline to submit, on a monthly basis, information on that carrier's performance with respect to delayed and cancelled flights, overbookings, and lost baggage for all domestic flights. Because many airlines collect information similar to that being requested by this legislation, the additional paperwork burden related to collecting it should not be significant. For other carriers, including many regional airlines, collecting this information will likely result in an increase in paperwork. In addition, because the bill requires an average monthly arrival time for each flight operated by every carrier for use in the airline computer reservation systems, there will be an increased burden associated with having that information collected, filed, and converted into electronic data.

The bill also requires that relevant information on the new 24-hour, toll-free hotline be printed on each airline ticket jacket. However, because such ticket jackets are regularly issued to each ticket holder by virtually every airline, this provision should not result in an increase in paperwork for the airline industry.

SECTION-BY-SECTION ANALYSIS

SECTION 1.—SHORT TITLE

This section states that the title of the bill is the "Air Passenger Protection Act of 1987".

SECTION 2.—AIRLINE PERFORMANCE STANDARDS

This section amends title IV of the Federal Aviation Act of 1958 to require a number of actions designed to improve the quality of commercial airline service in the United States. Several new sections are added to title IV, as outlined below.

Section 2 establishes a new section 420 in the Federal Aviation Act, which requires the Secretary, within 90 days after the date of enactment of this legislation, to promulgate regulations requiring air carriers to submit on a monthly basis the following information relating to scheduled air services in the United States: (1) on-time performance, measured as the average time of actual departure and arrival past the scheduled time of departure and arrival for air transportation between each airport-pair served by each air carrier; (2) the number of passengers carried by each air carrier who arrived at their final destination without one or more pieces of their checked baggage and who notify the carrier that such baggage failed to arrive, and the percentage of such passengers compared to the total number carried by that airline; (3) the number of flights cancelled by each carrier at each airport, and the percentage of such flights compared to the total number of scheduled flights at that airport; and (4) the number of passengers involuntarily denied boarding by each air carrier, and the compensation offered to such passengers. The Secretary is required to take such actions as may be necessary to make this information available to the public, including publication of summary information in the Federal Register and the issuance of monthly reports.

In establishing this reporting requirement, the Committee notes that the dissemination of information is as critical as its collection. In this light, it is expected that DOT will make every effort to ensure the widespread distribution of summary information, as well as the availability of specific market and carrier performance information for those who request it.

This section also creates a new section 421 in the Federal Aviation Act of 1958 requiring the Secretary, within 90 days of enactment of this legislation, to amend the regulations regarding computerized airline reservation systems contained in part 255 of title 14, Code of Federal Regulations, to require the Administrator to determine the minimum realistic time between any two airports in the United States, according to a formula developed by the Administrator and published in the Federal Register. Such a formula shall be based on factors including (1) the distance between the airports; (2) the standard cruise speed for the involved type of aircraft; (3) the typical taxi, landing, and take off times for the type of aircraft involved, and where appropriate, for the particular airport; and (4) where appropriate, meteorological factors. The Secretary is then required to ensure that for scheduled air transportation between any two airports in the United States, the elapsed time for each flight displayed in the airline computer reservation system shall not be less than the minimum realistic time established by the Administrator.

While many delays are caused by factors beyond an airline's control, some causes are clearly within the purview of an airline. One such example is the practice of "shaving" the amount of elapsed time for any flight. Such activity is a relatively recent phenomenon, first noted in 1985 by the Department of Justice, when one carrier admitted to having reduced its elapsed flight times to equal those of its competitors. The incentive to indulge in this practice is provided by the computer reservation systems, which rely primarily on elapsed time to order the listing of flights—flights with more direct routing and better connections reflect a real consumer preference and are accordingly given preferential listing on the computer reservation system screens. Based on historical information on ticket sales, the higher the listing of a flight on a computer reservation system screen, the greater the number of tickets sold.

This provision is designed to eliminate this form of competition between airlines by requiring that the FAA set minimum acceptable elapsed times for each domestic airport-pair with scheduled service. Those minimum displayed elapsed times will establish an elapsed time floor, under which no carrier can schedule a flight. The beneficiary will be the traveler as the airlines will be forced to schedule their flights in a more realistic manner. One advantage of this approach is that every carrier will know the formula and be able to apply it to its competitor's flights to determine compliance, thus holding down DOT surveillance and enforcement costs.

By requiring the FAA to establish the minimum flight time between any two airports, the Committee does not intend that flight schedules be stretched out to include the delays caused by the FAA in its use of Flow Control or other system-induced delays. The deficiencies of the air traffic control system must be resolved through increased air traffic controller staffing, expedited modernization of

the air traffic control facilities and equipment, and the construction of additional airport capacity.

New section 421 also requires each air carrier to provide to the Secretary the average of the actual arrival times from the previous month for each scheduled flight that it operates. This information then will be required to be included in all schedules published in the airline computer reservation systems and made available to the public. This information is designed to provide travelers with information on what they can expect as to the probable on-time performance of each flight throughout the day.

Conflicting evidence currently exists as to whether the airline computer reservation systems can be revised to display information in a cost-effective manner that provides meaningful assistance to the air traveler. In establishing this provision, the Committee believes that, as a complement to the performance information required under section 420, the airline computer reservation systems can be adapted to provide information that will be helpful to air travelers in knowing the expected on-time performance of a particular flight by a particular airpline. The Committee, however, is concerned that the costs of providing information for display in the computer reservation systems not fall unduly upon carriers which do not participate in such a system. The Secretary should thus ensure that the system vendors do not assess unreasonable or discriminatory fees for the collection or display of the information required by this section.

New section 421 also provides that for the purpose of ordering the display of flight information, the Secretary shall prohibit any airline computer reservation system from assigning a weight of displacement for any flight having a schedule departure time 30 minutes or less after the departure time requested or 29 minutes or less before the departure time requested.

This provision is intended to address a second problem created by incentives that currently exist in the listing of flights in the airline computer reservation systems. Currently, these systems use various algorithms to prioritize the display of flights between any two cities. One of these algorithms, known as the "displacement factor," assigns a preferential listing to those flights which occur at the time requested for departure by consumers or their travel agents. Knowing when people prefer to fly, the airlines have an incentive to schedule departure times precisely at those most-requested minutes, which are typically on the hour, even though the individual traveler may have no real preference, for example, between a 9:00 a.m. departure and a 9:18 a.m. departure. This provision will ensure that within the hour of a requested departure time, flights will be displayed on the computer reservation system screen in a manner that will not give priority to those closer to the requested time. With the elimination of an incentive to schedule flights at a precise moment—which leads to more flights being scheduled to depart than an airport often can handle—the Committee is convinced that airlines will spread out their schedules, thus ensuring that their flights can depart at the scheduled time.

This section also creates a new section 422 in the Federal Aviation Act of 1958 relating to the promulgation of certain regulations required under this legislation. Under this new section, the Secre-

tary is required, within 90 days of enactment, to issue regulations: (1) to establish a standardized definition of a delayed flight, as well as the causes of delays, including weather, air traffic control, passenger service, maintenance, and any other safety factor, and require each air carrier, when reporting information under section 420(a)(1) of the Federal Aviation Act of 1958, to report the cause of its delays; (2) to establish a uniform designation symbol to be used by an air carrier in its schedules to identify aircraft having a passenger seating capacity of 30 seats or less; (3) to amend the final rule issued under part 121 of title 14, Code of Federal regulations, relating to carry-on baggage programs to establish uniform standards for use by all air carriers in controlling the size and amounts of carry-on baggage; and (4) to require that any air carrier which advertises a fare for particular air transportation, but does not make that fare available for all passengers on such transportation, must include in any advertisement for such transportation a notice that the availability of the advertised fare is limited. Information provided under this section, including the information provided by each air carrier concerning the causes of its delays, shall be made available to the public by the Secretary.

The Committee believes that each of these particular rulemaking requirements is necessary to improve the quality of airline service, and the amount of information air travelers should have available to them. With respect to requiring the reporting on the cause of each delay, the Committee believes that such information will be of great assistance to the Administrator, the Secretary, and the Congress, in providing a better understanding of why delays occur, and more importantly, how to eliminate them. The current uncertainty over the cause of the record numbers of delayed flights is not conducive to effective identification and resolution of that problem.

With respect to the designation of small aircraft in future airline schedules, the Committee does not intend in any way to allow discrimination against the operators of smaller commercial aircraft. However, with the increase in marketing agreements between commuter and major airlines, and the subsequent listing of those flights in the computer reservation systems under the same airline identification code, there has been a corresponding increase in the number of travelers unknowingly flying aboard smaller, less comfortable aircraft. The Committee believes that by establishing a common designator for aircraft with 30 passenger seats or less used throughout the airline industry, along with widespread knowledge of that symbol, people will be better informed regarding expected flight accommodations.

Section 2 of the bill also establishes a new section 423 of the Federal Aviation Act of 1958 requiring the Secretary to establish, within 90 days of enactment, a 24-hour toll-free consumer hotline to provide consumer information on air carrier performance records, information as to the rights of consumers and responsibilities of air carriers, and assistance in resolving disputes between consumers and air carriers. Information with respect to the availability of this hotline, and its purpose, together with the telephone number of such hotlines, shall be printed or stamped on each ticket jacket, and prominently displayed in appropriate locations at airports.

In establishing toll-free consumer complaint hotline number, the Committee believes that DOT should develop a uniform method for recording and resolving complaints. In this light, the Secretary is advised to establish procedures to be followed in handling oral and written complaints, ensuring that the name, address, and telephone number, as well as the nature and date the occurrence of the complaint, are logged. In addition, the Secretary shall develop a process to eliminate any duplication in the logging and reporting of complaints. Finally, in order to ensure the validity of the complaints, the Secretary is urged to provide access to these complaint forms by the affected carrier at a time prior to publication of the information.

Section 2(b) of the bill provides that the Secretary shall not implement any provision of this section, or any amendment made by this section, if the Secretary determines that such implementation will have an adverse impact on the safety of air transportation. If such a determination is made, the Secretary is required to publish notice in the Federal Register. With this provision, the Committee reaffirms its basic philosphy that safety is the issue of foremost concern in commercial aviation. The Committee believes, however, that in the consideration of this legislation, every effort was made to ensure that its provisions will not in any way compromise aviation safety. As a result, in making any determination required under this subsection, the Secretary bears the burden of proof that any provision will have an adverse impact on aviation safety.

Section 2(c) of the bill provides that any information reported pursuant to this legislation shall not be used by a vendor of a computerized reservation system to bias the display of flights or fare information. Present law requires that computer reservation systems display flight availability and scheduling in a carrier-neutral manner. This provision prohibits bias in screen displays, but does not prohibit the fair, reasonable, and objective use of any collected data in the airline computer reservation systems.

Subsection 2(d) makes changes to the table of contents to the Federal Aviation Act of 1958 to reflect new sections created by this legislation.

SECTION 3.—CAPACITY ADVISORY COMMITTEE

Section 3 of the bill requires the Secretary to establish an Advisory Committee to determine the appropriate level of capacity in the air traffic control system. Headed by the Administrator of the FAA, and including representatives of aviation user groups, this committee is required to submit a report to the Congress and the Secretary not later than December 31, 1988. The report shall include recommendations on: the levels of traffic which the air traffic control system is capable of handling safety and with a high level of dependability for each year of a 5-year period beginning on January 1, 1989; the speed with which system capacity can be safely increased; and what additional resources should be made available to assure maximum safety and system capacity.

By providing for this blue-ribbon committee, the Committee believes that improved forecasts about future traffic levels will be developed for use by the FAA in ensuring that adequate airport and

airway capacity is available. In recent years, FAA estimates of growth in aviation have been inadequate to ensure that such capacity is available to safely accommodate user demand. This advisory committee will enable not only the FAA, but concerned groups, including the airlines, general aviation, labor, the airports, and airline passenger groups, among others, to participate in the development of projections on capacity and the resources needed to assure maximum system capability. In evaluating the capacity of the air traffic control system, the advisory committee is urged to examine closely the capacity of therminal airspace and airport facilities, and to identify research efforts that will promote operational and procedural improvements to enhance safety and capacity at airports.

To facilitate improved traffic level forecasts, the Committee urges the Administrator, as head of the advisory committee, to use the best and most objective data available, as well as a computer model to assemble this information. It is the Committee's understanding that, while the capability exists to develop computer programs that can provide information on the capacity of the air traffic control system, no such models have been developed by the FAA. The Committee believes that in addition to enhancing air traffic control procedures and capacity decisions, such a computer model would have possible benefits for all carriers and users of the air traffic control systems in devising scheduling practices that could minimize delays. The December 31, 1988 deadline should be viewed as a firm date for completing this review.

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

Federal Aviation Act of 1958

The Table of Contents of that Act

* * * * * * *

Sec. 419. * * *
Sec. 420. Submission of certain information.
(a) Required information.
(b) Availability of information.
Sec. 421. Computerized airline reservation systems.
(a) Requirements of information in the system.
(b) Specific information.
Sec. 422. Promulgation of certain regulations.
Sec. 423. Consumer hotline.

TITLE IV—AIR CARRIER ECONOMIC REGULATION

Sec. 401-Sec. 419. * * *

SUBMISSION OF CERTAIN INFORMATION

REQUIRED INFORMATION

SEC. 420. (a) The Secretary shall, within ninety days after the date of enactment of the Air Passenger Protection Act of 1987, promulgate regulations requiring air carriers to submit to the Secretary on a monthly basis the following information relating to scheduled air transportation between any airports in the United States:

(1) on-time performance, measured as the average time of actual departure and arrival past the scheduled departure and scheduled arrival time for transportation between each two points served by each air carrier.

(2)(A) The total number of passengers carried by each air carrier, (B) the number of such passengers who arrived at their final destination without one or more pieces of their checked baggage and who notify the air carrier that such baggage failed to arrive, and (C) what percent the passengers identified in subparagraph (A) of this paragraph are of the passengers specified in subparagraph (B) of this paragraph.

(3)(A) The number of flights scheduled at each airport by each air carrier, (B) the number of such flights cancelled at each airport, and (C) what percent the flights identified in subparagraphs (B) of this paragraph are of the flights identified in subparagraph (A) of this paragraph.

(4) The number of passengers involuntarily denied boarding by each air carrier, and the compensation offered to such passengers.

AVAILABILITY OF INFORMATION

(b) The Secretary shall, with respect to information reported under subsection (a) of this section, take such action as may be necessary to make that information available to the public, including publication of summary information in the Federal Register and the issuance of monthly reports.

COMPUTERIZED AIRLINE RESERVATION SYSTEMS

REQUIREMENTS OF INFORMATION IN THE SYSTEM

SEC. 421. (a) The Secretary shall, within ninety days after the date of enactment of the Air Passenger Protection Act of 1987, amend the regulations regarding computerized airline reservation systems offered to subscribers by an air carrier of any of its affilates contained in part 255 of title 14, Code of Federal Regulations, to require that—

(1) for scheduled air transportation between any airports in the United States, the elapsed time shown for each flight displayed in such computer system shall not be less than a minimum realistic time established by the Administrator for such transportation;

(2) no such computer system shall, for purposes of ordering the display of flight information, assign a weight of displacement for any flight having a scheduled departure time thirty

minutes or less after the departure time requested or twenty-nine minutes or less before the departure time requested; and

(3) each air carrier provide the Secretary with an average of the actual arrival times for each scheduled flight that it operates, based on the actual times of arrival for such flight during the previous month.

SPECIFIC INFORMATION

(b)(1) The Administrator shall determine the minimum realistic time under subsection (a)(1) of this section according to a formula to be developed by the Administrator and published in the Federal Register. Such formula shall be based on (A) the distance between the airports; (B) the standard cruise speed for the involved type of aircraft; (C) the typical taxi, landing, and take off times for the type of aircraft involved and, where the Administrator determines it to be appropriate, for the airport; and (D) where the Administrator determines it to be appropriate, meteorological factors.

(2) The Secretary shall require that the information provided under subsection (a)(3) of this section is included in all schedules published in such computer reservation systems, and that such information is made available to the public.

PROMULGATION OF CERTAIN REGULATIONS

SEC. 422. The Secretary shall, within ninety days after the date of enactment of the Air Passenger Protection Act of 1987, promulgate regulations—

(1) to establish a standardized definition of a delayed flight, as well as the causes of delays;

(2) to establish a uniform designation symbol to be used by an air carrier in its schedules to identify aircraft having a passenger seating capacity of thirty seats or less;

(3) to amend the final rule issued under part 121 of title 14, Code of Federal Regulations, relating to carry-on baggage programs to establish uniform standards for use by all air carriers in controlling the size and amounts of carry-on baggage; and

(4) to require that any carrier who advertises a fare for particular air transportation but does not make that fare available for all passengers on such transportation must include in any advertisement for such transportation a notice that availability of transportation at the advertised fare is limited.

The definition established under paragraph (1) of this section shall include considerations of weather, air traffic control, passenger service, maintenance, and any other safety factor. The Secretary shall require each air carrier, in reporting information under section 420(a)(1) of this Act, to report to the Secretary the cause of its delays. Such information shall be made available to the public.

CONSUMER HOTLINE

SEC. 423. The Secretary shall, within ninety days after the date of enactment of the Air Passenger Protection Act of 1987, establish a twenty-four hour toll-free consumer hotline to provide consumer information on air carrier performance records, information as to the rights of consumers and responsibilities of air carriers, and assist-

ance in resolving disputes between consumers and air carriers. Information with respect to the availability of such hotline and its purpose, together with the telephone number of such hotlines, shall be printed on each ticket jacket, and prominently displayed in appropriate locations at airports.

○

Calendar No. 288

100TH CONGRESS *1st Session*	SENATE	REPORT 100-142

FEDERAL COMMUNICATIONS COMMISSION AUTHORIZATION ACT OF 1987

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

OF THE

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

S. 1048

AUGUST 4, 1987.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1987

91-010

S263-19

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ERNEST F. HOLLINGS, South Carolina, *Chairman*

DANIEL K. INOUYE, Hawaii
WENDELL H. FORD, Kentucky
DONALD W. RIEGLE, JR., Michigan
J. JAMES EXON, Nebraska
ALBERT GORE, JR., Tennessee
JOHN D. ROCKEFELLER IV, West Virginia
LLOYD BENTSEN, Texas
JOHN F. KERRY, Massachusetts
JOHN B. BREAUX, Louisiana
BROCK ADAMS, Washington

JOHN C. DANFORTH, Missouri
BOB PACKWOOD, Oregon
NANCY LANDON KASSEBAUM, Kansas
LARRY PRESSLER, South Dakota
TED STEVENS, Alaska
ROBERT W. KASTEN, JR., Wisconsin
PAUL S. TRIBLE, JR., Virginia
PETE WILSON, California
JOHN MCCAIN, ARIZONA

RALPH B. EVERETT, *Chief Counsel and Staff Director*
W. ALLEN MOORE, *Minority Chief of Staff*

Calendar No. 288

100TH CONGRESS
1st Session

SENATE

REPORT
100-142

FEDERAL COMMUNICATIONS COMMISSION AUTHORIZATION ACT OF 1987

AUGUST 4, 1987.—Ordered to be printed

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 1048]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1048) to amend the Communications Act of 1934 to provide authorization of appropriations for the Federal Communications Commission, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill do pass.

PURPOSE OF THE BILL

The legislation authorizes appropriations for the Federal Communications Commission (FCC) of $107,250,000 for fiscal year 1988 and $109,250,000 for fiscal year 1989. The bill also extends the FCC's travel reimbursement authority through fiscal year 1989, eliminates the annual management report, and postpones the date of indexing the fee schedule for inflation from April 7, 1988 to April 1, 1989.

BACKGROUND AND NEEDS

The FCC is an independent regulatory agency that oversees interstate and foreign communications by wire and radio spectrum. With advances in new technologies and the opening of markets to competition, the FCC is constantly making key policy decisions that fundamentally affect the marketplace. The importance of the FCC and its actions cannot be underestimated. That is why, since 1981, the Congress has enacted legislation to establish authoriza-

91-010

tion levels for the FCC. The Congress views such legislation as a way to increase its oversight of the FCC in the current dynamic environment.

The following sections discuss the provisions in the legislation as well as issues of concern to the Committee.

AUTHORIZATION AMOUNTS

This legislation funds the FCC at $107,250,000 for fiscal year 1988 and $109,250,000 for fiscal year 1989. The amount for fiscal year 1988 is the same as that submitted by the President. It is $5 million more than the fiscal year 1987 level. This additional amount is to fund increases in compensation and benefits, to fund new positions to process and collect fees, and to provide for the relocation of a monitoring station. The Committee notes that the introduction of competition in communications markets has brought with it a tremendous increase in the number of applications filed with the FCC. Since the processing of these applications is of great import to the people filing and to the public at large, the Committee believes strongly that sufficient resources should be provided.

TRAVEL REIMBURSEMENT

In 1982, the Congress first authorized the FCC to accept payment from outside parties to reimburse the business-related travel of Commission employees. The Congress believed that it was important for Commission employees to discuss the FCC's program with people outside of Washington, DC, but that the FCC's budget was insufficient to cover such valid travel. The Congress, therefore, believed that outside parties should be able to reimburse the FCC for such travel under certain conditions. Since such a program has the potential for abuse, a key condition was that Congress would reauthorize it periodically. The most recent reauthorization was in early 1986.

The legislation reauthorizes the travel reimbursement program until the end of fiscal year 1989. The Committee has reviewed all travel reimbursed and finds no reason to question the FCC's implementation of the program. The Committee cautions the FCC to continue its close oversight to ensure no abuses occur.

ANNUAL MANAGEMENT REPORT

Congress mandated the Annual Management Report in 1981. It was designed to provide an overview of the FCC's program for the next three years. The Committee now finds that much of the same information in this report is contained in the Commission's annual budget submission and in the Annual Report (mandated in section 4(k) of the Communications Act of 1934). It is for that reason that the legislation eliminates the requirement of the Annual Management Report.

FEE SCHEDULE

The fee schedule in the Communications Act was enacted in 1986. It establishes fees to be paid for certain services of the FCC, such as considering the award of a license or the approval of a

tariff. It raises about $30 million annually, and this amount is expected to increase.

As part of the fee schedule provision, Congress mandated that the fees be indexed for inflation every two years, beginning two years from the date of enactment (April 7, 1986). The FCC first implemented the fees on April 1, 1987. The FCC has found that the initiation of the fees has been accompanied by significant confusion, and there have been problems with compliance. Because of these problems, the FCC has approached the Committee and asked for a one-year delay in changing the fees because of inflation. The FCC argues that the public is just beginning to understand the new law and that a change in fees so soon after the date of implementation would exacerbate compliance problems.

The Committee agrees with the FCC's concern. The legislation postpones the date of indexing from two years after the date of enactment (April 7, 1988) until April 1, 1989. The Committee believes this will lessen problems of compliance while causing the minimal loss of revenues. The indexing that will occur on April 1, 1988 will account for changes in the Consumer Price Index that have occurred since the date of enactment of the fee schedule provision.

THE SUBSCRIBER LINE CHARGE

In April, the FCC adopted a new access charge plan which included a $1.50/month increase in the subscriber line charge (SLC) for residential and single-line business telephone users. This increase would occur in three increments of $.60, $.60, and $.30 over the next 22 months. The FCC has explicitly stated in this plan that the total charge of $3.50/month (the current $2 charge plus the $1.50 increase) would be capped and would not be increased further.

An SLC was first proposed by the FCC in 1982. At that time, the charge for residential users was to be phased in until it reached approximately $6/month. The Congress, however, strongly believed such a proposal was not justified. Legislation to prohibit this charge passed the House and likely would have succeeded in the Senate if the FCC had not reduced the charge to $2/month, with a promise to study the issue further before any increase would be adopted.

The FCC and the telephone industry argue that the SLC is needed to reduce the contribution long distance users make to maintain the local telephone plant that is jointly used for local and long distance service. If this charge were not imposed, they argue, telephone users would have an incentive to forgo using local telephone facilities, that is, bypass the local network. In addition, there would be less efficient use of the telephone network. Opponents of the SLC rebut these arguments by pointing out that the charge causes long distance rates to decrease but local rates to increase. Although the average telephone user would break even in such circumstances, those who do not make many long distance calls—often poor people—would have a rate increase. This may well cause such people to stop or reduce telephone service. These opponents also argue that the proponents have greatly overstated the extent of bypass.

It should be noted that the FCC's access charge plan contains much more than the $1.50/month increase in the residential and single-line business SLC. The plan continues the current lifeline program which permits States to join with the FCC in eliminating the SLC, reducing local rates for poor people. Moreover, it expands this program by assisting poor people in paying for the cost of installing a telephone line (the so-called Link-Up Program). The current High-Cost Fund (used mainly to support rural telephone companies) is continued but is targeted at small telephone companies. The plan also establishes a mechanism to continue the benefits of "pooling" (of low-cost with high cost areas to ensure averaged rates) while permitting telephone companies greater flexibility so that each company's costs can be reflected in its rates. Finally, the FCC adopted two other plans that would shift a large percentage of central office equipment costs and other shared costs from interstate to intrastate services.

At the April hearing, the Committee questioned the FCC extensively about the increase in the SLC and the other features of the new access charger proposal. The Committee was concerned and remains concerned about whether the new charge strikes the proper balance between the goals of increasing the efficient use of the network and deterring bypass and of preserving and furthering universal telephone service. The Committee does not now anticipate any action on the new plan. However, the Committee will continue to closely follow the FCC's actions. In addition, the Committee expects the FCC to monitor the effects of its plan, to review fully the state of the marketplace prior to permitting the next two parts of the SLC increase to take effect, and to alter its plan if circumstances warrant, particularly in the event of harm to universal telephone service.

THE THIRD COMPUTER INQUIRY

Over the past 15 years, the FCC has wrestled with the difficult and fundamental problem of defining basic telephone services and data processing services and then determining their regulatory status. The former services are considered monopoly services and have been regulated; the latter competitive services that have been unregulated. In 1980, in its *Second Computer Inquiry* decision, the FCC defined basic telephone service and data processing services and determined that the latter should remain unregulated. In addition, the FCC concluded that AT&T (and its local telephone operations) only could offer these data processing services through an arms-length, separate subsidiary so as to better ensure that these competitive ventures would not be improperly favored.

Last year, the FCC decided, in its *Third Computer Inquiry* decision, to abolish this separate subsidiary requirement and instead rely upon accounting rules and a requirement of comparably efficient interconnection/open network architecture (CEI/ONA) to prevent anti-competitive acts. At the time of this decision, neither of these new measures was in place and, in the instance of CEI/ONA, was not yet fully defined. The FCC has spent the past year seeking to correct this situation. New accounting rules for the allocation of joint costs have been adopted by the FCC. CEI plans are under con-

sideration. The telephone and enhanced services industries also have been active in attempting to take ONA from mere ideas to concrete plans.

The Committee considers the issues raised in the *Third Computer Inquiry* and its predecessors to be of fundamental importance. With its new proposals, the FCC has embarked on a path that may ease past problems while bringing new services to the public more quickly. At the same time, there are significant and legitimate questions about the effectiveness of these new proposals in protecting the ratepayers and in furthering competition. For example, the reach of the new accounting rules is so far limited to interstate activities, and the effectiveness of the rules remains uncertain. The Committee will follow closely the FCC's actions in implementing the Third Computer Inquiry to ensure these goals are met.

COMMON CARRIER DEREGULATION

Over the past few years, the FCC has considered in various proceedings the deregulation of AT&T and other dominant carriers, which, because of their control of the key telephone facilities, have significant market power. The FCC first initiated an overall inquiry into AT&T's market dominance. This produced lengthy comments but has yet to be completed. More recently, the FCC instituted a proceeding to determine whether deregulation could occur on a service-by-service basis. Under such an approach, the FCC will shift the focus of deregulation from the control of key facilities to dominance in individual services provided over those facilities. The comments filed in this proceeding strongly question this approach on the ground that services can be and are created and eliminated at any time while facilities remain the bedrock of any network.

At the April hearing, the Chairman of the FCC discussed other approaches that might be taken to lessen regulation of dominant carriers. In light of these comments and further discussions, the Committee expects the FCC to propose soon an alternative to traditional rate of return regulation. While it is not difficult to find problems with this traditional method of regulation, the Committee cautions the FCC to ensure the protection of the ratepayer is a top priority of any new plan. For example, difficult questions are raised about the so-called "price cap" method when costs are falling. In addition, the ratepayer should reap a fair share of the benefits of increased productivity. The Committee plans to scrutinize carefully any new deregulation proposal to ensure it is in the ratepayer's best interests.

LEGISLATIVE HISTORY

S. 1048 was introduced on April 21, 1987 by Senator Inouye, with Senators Hollings, Danforth, and Packwood as co-sponsors. This legislation provided for the funding of the FCC for fiscal years 1988 and 1989 and for the extension of the travel reimbursement program until the end of fiscal year 1989. The Communications Subcommittee held a hearing on the reauthorization of the FCC. The Chairman of the FCC, Dennis Patrick, was the sole witness. On July 14, 1987, the Committee ordered the bill to be reported favorably, without objection, adopting an amendment in the nature of a

substitute. This amendment included the original provisions of S. 1048 and added two new amendments: to eliminate the Annual Management Report; and to postpone the date of indexing the fee schedule until April 1, 1989.

Summary of Major Provisions

The first section provides the short title for the legislation.

Section 2 authorizes funding for the FCC for fiscal years 1988 and 1989.

Section 3 extends the travel reimbursement program until the end of fiscal year 1989.

Section 4 eliminates the Annual Management Report requirement.

Section 5 postpones the date of indexing the fee schedule for inflation from two years after the date of enactment of the schedule (April 7, 1988) until April 1, 1989.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office.

U.S. Congress,
Congressional Budget Office,
Washington, DC, July 23, 1987.

Hon. Ernest F. Hollings,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for S. 1048, the Federal Communications Commission Authorization Act of 1987.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

Edward M. Gramlich,
Acting Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1048.
2. Bill title: Federal Communications Authorization Act of 1987.
3. Bill status: As ordered reported by the Senate Committee on Commerce, Science, and Transportation, July 14, 1987.
4. Bill purpose: S. 1048 authorizes the appropriation of up to $107.25 million in fiscal year 1988 and $109.25 million in fiscal year 1989 to carry out the programs of the Federal Communications Commission (FCC), and such additional sums for fiscal years 1988 and 1989 as may be necessary for increases in salary, pay, and other employee benefits as authorized by law. In addition, the bill makes a number of changes in FCC policies and procedures.

Appropriations to date for fiscal year 1987 are $97.0 million for the FCC, and the President is requesting a 1988 appropriation of $107.3 million.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1988	1989	1990	1991	1992
Authorization level:					
Specified (function 370)	107.3	109.3	---	---	---
Estimated (function 920)	2.4	5.0	---	---	---
Total	109.7	114.3	---	---	---
Estimated outlays	102.5	114.0	7.4	---	---

Including outlays from previous years' appropriations, total 1988 outlays would be $108.7 million, assuming appropriation of the authorized amounts.

The costs of this bill fall within budget function 370.

Basis of estimate

For the purposes of this estimate, it was assumed that the amounts authorized in the bill would be appropriated prior to the beginning of each fiscal year. The increases for salary, pay, and other employee benefits required by law for fiscal years 1988 and 1989 are estimated consistent with the Concurrent Resolution on the Budget for Fiscal Year 1988 (H. Con. Res 93). Outlays reflect historical spending patterns for the ongoing activities of the FCC.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Douglas Criscitello.

10. Estimate approved by: James Blum, Assistant Director for Budget Analysis.

Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation.

S. 1048, as reported, authorizes funds for the FCC over the next two fiscal years, extends the travel reimbursement program, eliminates the Annual Management Report, and postpones the date of indexing of the fee schedule for approximately one year. Since the legislation postpones a change in the fee schedule regulation, this legislation will have a slight beneficial economic impact on those regulated. Otherwise, the legislation should have no impact upon the number and types of persons affected by regulation, no economic impact on consumers or businesses, and no impact on the personal privacy of individuals. In addition, it should not create additional paperwork.

SECTION-BY-SECTION ANALYSIS

SECTION 1.—SHORT TITLE

This section provides that the legislation may be cited as the "Federal Communications Commission Authorization Act of 1987".

SECTION 2.—AUTHORIZATION OF APPROPRIATIONS

This section provides funding of $107,250,000 for fiscal year 1988 and $109,250,000 for fiscal year 1989.

SECTION 3.—TRAVEL REIMBURSEMENT PROGRAM

This section provides for a two-year extension of the travel reimbursement program contained in section 4(g)(2) of the Communications Act.

SECTION 4.—ANNUAL MANAGEMENT REPORT

This section eliminates the Annual Management Report required in section 5(g) of the Communications Act.

SECTION 5.—FEE SCHEDULE

This section postpones the date of indexing the fee schedule (section 8 of the Communications Act) from two years after the date of enactment of the fee schedule provision (April 7, 1988) to April 1, 1989.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

COMMUNICATIONS ACT OF 1934

Section 4 of that Act

FEDERAL COMMUNICATIONS COMMISSION

SEC. 4. (a) * * *
(b)–(f) * * *
(g)(1) * * *
(2)(A) * * *
(B)–(C) * * *
(D) The provisions of this paragraph shall cease to have any force or effect at the end of fiscal year [1987.] *1989.*

COMMISSION

SEC. 5. (a)–(f) * * *
[(g) The Commission shall submit an annual report to the Congress not later than March 31 of each year. Such report shall—
[(1) list the specific goals, objectives, and priorities of the Commission which shall be projected over 12-month, 24-month, and 36-month periods;

[(2) describe in detail the programs which are, or shall be, established to meet or carry out such goals, objectives, and priorities;

[(3) provide an evaluation of actions taken during the preceding year with regard to fulfilling the functions of the Commission; and

[(4) contain recommendations for legislative action required to enable the Commission to meet the objectives.]

AUTHORIZATION OF APPROPRIATIONS

[SEC. 6. There are authorized to be appropriated for the administration of this Act by the Commission $98,100,000 for fiscal year 1986 and $97,600,000 for fiscal year 1987, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1986 and 1987.]

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are authorized to be appropriated for the administration of this Act by the Commission $107,250,000 for fiscal year 1988 and $109,250,000 for fiscal year 1989, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1988 and 1989.

CHARGES

SEC. 8. (a) The Commission shall assess and collect charges at such rates as the Commission shall establish or at such modified rates as it shall establish pursuant to the provisions of subsection (b) of this section. The Schedule of Charges established under this subsection shall be implemented not later than 360 days after the date of enactment of this section.

(b)(1) The Schedule of Charges established under this section shall be reviewed by the Commission every two years after *April 1, 1987* [the date of enactment of this section] and adjusted by the Commission to reflect changes in the Consumer Price Index. Increases or decreases in charges shall apply to all categories of charges, except that individual fees shall not be adjusted until the increase or decrease, as determined by the net change in the Consumer Price Index since the date of enactment of this section amounts to at least $5.00 in the case of fees under $100.00, or 5 percent in the case of fees of $100.00 or more. All fees which require adjustment will be rounded upward to the next $5.00 increment. The Commission shall transmit to the Congress notification of any such adjustment not later than 90 days before the effective date of such adjustment.

(2) Increases or decreases in charges made pursuant to this subsection shall not be subject to judicial review.

○